

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

IN THE MATTER OF:

Clover Logan Circle, LLC
t/a Tortilla Coast Protest
400 1st Street, SE Hearing
Retailer CR (Status)
License No. 85922
Case No. 13-PRO-00165
Substantial Change

February 26, 2014

The Alcoholic Beverage Control
Board met in Alcoholic Beverage Control
Hearing Room, Reeves Building, 2000 14th
Street N.W., Washington, D.C., Chairman
Ruthanne Miller, presiding.

PRESENT

RUTHANNE MILLER, Chairperson
NICK ALBERTI, Member
DONALD BROOKS, Member
HERMAN JONES, Member
MICHAEL SILVERSTEIN, Member
HECTOR RODRIGUEZ, Member
JAMES SHORT, Member

ALSO PRESENT:

P-R-O-C-E-E-D-I-N-G-S

(9:47 a.m.)

CHAIRPERSON MILLER: Good morning ladies and gentlemen, welcome to the regularly scheduled meeting of the District of COLUMBIA Alcohol Beverage Control Board. Today is February 26th, 2014.

My name is Ruthanne Miller, I'm the Chairperson. Joining me today, to my far right, is Mr. Donald Brooks.

Next to Mr. Brooks is Mr. Nick Alberti and next to Mr. Alberti is Mr. Hector Rodriguez. And to my left immediately is Mr. Mike Silverstein and next to Mr. Silverstein is Mr. James Short.

We have six members in attendance for the conduct of business today, this morning with three constituting a quorum. Copies of today's hearing calendar and agenda are available at the receptionist's desk.

Please be aware that these proceedings are being recorded by a court

1 reporter. We must ask you therefore to
2 refrain from any disruptive noises or actions
3 in the hearing room.

4 If you have any electronic
5 devices, pagers, cell phones or such, please
6 make sure they're turned off to avoid any
7 interruption of the proceedings.

8 When I call your case please come
9 forward and take a seat at one of the tables
10 in the front. You'll notice that there is a
11 piece of paper on each table for you to sign
12 in. This is to ensure the correct spelling of
13 your name for the record.

14 The Open Meetings Act requires
15 that the public hearing on each case be open
16 to the public. The Board may, consistent with
17 Section 405(b) of the Open Meetings Act, enter
18 a closed meeting or after the public hearing
19 on a case to consult with an attorney to
20 obtain legal advise, to discuss settlement
21 agreements or deliberate upon a decision in an
22 adjudication preceding.

1 Okay, I'm going to call the first
2 case for this morning. And the first two
3 cases are Protest Status Hearing cases.

4 The first one is Case Number 13-
5 PRO-00165, Tortilla Coast. That's located at
6 400 1st Street, SE, License Number 85922 in
7 ANC 6B.

8 And when you're ready you can
9 introduce yourselves for the record please.

10 MS. DICK: Rachel Dick, for
11 Tortilla Coast.

12 CHAIRPERSON MILLER: Okay. And
13 what's your position with Tortilla Coast?

14 MS. DICK: The comptroller.

15 CHAIRPERSON MILLER: The
16 comptroller, okay.

17 MS. ROLE: Good morning, my name
18 is Susan Eads Role and I'm the Executive
19 Director for ANC 6B.

20 CHAIRPERSON MILLER: Okay. All
21 right, unless you have any issues you need to
22 raise before the Board I'm going to give you

1 some instructions for the Protest Hearing.

2 MEMBER ALBERTI: Madam Chair, may
3 I ask --

4 CHAIRPERSON MILLER: Yes.

5 MEMBER ALBERTI: -- do both of the
6 representatives, have they been given
7 authority and do you have documents that
8 they've been given authority to represent
9 parties?

10 MS. DICK: I have. I also have a
11 letter from the President.

12 MEMBER ALBERTI: Okay. And you've
13 submitted that?

14 MS. DICK: I can submit it.

15 MEMBER ALBERTI: Well I'll let the
16 Chair handle that.

17 CHAIRPERSON MILLER: Okay, so what
18 he's asking about is, you know, whoever is
19 here on behalf of the party should be
20 authorised to speak on behalf of the party so
21 we know, for instance an owner automatically
22 has authority to speak for the establishment

1 and we know that the chair of the ANC, or
2 usually with a letter, whatever, by the time
3 you get here, has that authority.

4 I see in our files that Brain
5 Flahaven wrote a letter to Ms. Anderson saying
6 that he would be unable to be here and that
7 Susan Eads Roles has authority to appear on
8 his behalf. Do we have something from you
9 about your authority to appear?

10 MS. DICK: I didn't submit
11 anything previously but I have something with
12 me now.

13 CHAIRPERSON MILLER: Okay, would
14 you, do you mind giving, is that a copy or do
15 you need a copy back?

16 MS. DICK: I don't need a copy
17 back.

18 CHAIRPERSON MILLER: Okay, thank
19 you.

20 MEMBER ALBERTI: Thank you. Thank
21 you, Madam Chair.

22 CHAIRPERSON MILLER: Okay.

1 MEMBER ALBERTI: I just want to
2 make sure that we have the record straight.

3 CHAIRPERSON MILLER: Okay.
4 Perfect. Okay, this is from Brain Sullivan
5 president of Clover Restaurant Group saying
6 that he is empowering Rachel Dick, the
7 corporate controller for Clover Restaurant
8 Group, to represent the company on his behalf
9 as he's unfortunately unable to attend the
10 status hearing, et cetera. So there's more,
11 but good. Both letters satisfy the
12 authorization.

13 All right, if there's nothing else
14 then I will set your date for protest hearing
15 as April 9th, 2014, at 1:30 p.m. And I just
16 want to read you a few instructions -- What?
17 I thought I heard somebody, okay -- read you
18 a few instructions for you to keep in mind for
19 that hearing.

20 The purpose of a protest hearing
21 is to determine the apporporaitness of the
22 establishment in the section of the District

1 where the establishment is located. And
2 that's found in 23-1607 of our Regulations.

3 The protest hearing should be
4 focused only on the issues that are being
5 protested. The Board does not intend to hear
6 testimony on matters that are not relevant to
7 those specific issues.

8 And you should have received in a
9 mailing from Adjudication Assistant Tesha
10 Anderson a letter explaining the protest
11 process. A copy of the protest information
12 form, also known as a PIF, and a copy of the
13 exhibit form.

14 If you don't have these documents
15 please stay here at the conclusion of this
16 hearing. It's important that you review the
17 rules closely and adhere to them.

18 You're required to complete and
19 submit the PIF and the exhibit form seven days
20 before the hearing. They have to be submitted
21 with any accompanying exhibits to Ms. Anderson
22 for the Board and to all opposing parties in

1 this matter.

2 If we don't receive a copy of your
3 PIF, your application or your protest may be
4 subject to dismissal. So please don't not do
5 that.

6 If we don't receive a copy of the
7 exhibit form and the exhibits themselves, your
8 exhibit maybe excluded from the record upon a
9 finding that the opposing party has been
10 prejudice or no good cause for the failure to
11 submit has been shown.

12 Likewise, witnesses, other than
13 the party, may also be subject to exclusion if
14 not identified on the PIF.

15 Okay, so these are very important
16 for your case as it will proceed at the
17 hearing and it allows all parties to be on
18 notice and be able to prepare for the hearing.
19 Okay.

20 If you have any questions leading
21 up to the hearing, feel free to call Ms.
22 Anderson at 442-6942. And you can also check

1 with our General Counsel Martha Jenkins.

2 All right, you have any questions?

3 Okay, than thank you very much.

4 MS. ROLE: Thank you.

5 MS. DICK: Thank you.

6 MEMBER ALBERTI: Thank you.

7 (Whereupon, the hearing in the
8 above-entitled matter was concluded at 9:54
9 a.m.)

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<p>A</p> <p>a.m 2:2 10:9 able 9:18 above-entitled 10:8 accompanying 8:21 Act 3:14,17 actions 3:2 adhere 8:17 adjudication 3:22 8:9 advise 3:20 agenda 2:19 agreements 3:21 Alberti 1:15 2:12 2:12 5:2,5,12,15 6:20 7:1 10:6 Alcohol 2:6 Alcoholic 1:2,11,12 allows 9:17 ANC 4:7,19 6:1 Anderson 6:5 8:10 8:21 9:22 appear 6:7,9 application 9:3 apporporaitness 7:21 April 7:15 asking 5:18 Assistant 8:9 attend 7:9 attendance 2:16 attorney 3:19 authorised 5:20 authority 5:7,8,22 6:3,7,9 authorization 7:12 automatically 5:21 available 2:20 avoid 3:6 aware 2:21</p> <p>B</p> <p>back 6:15,17 behalf 5:19,20 6:8 7:8</p>	<p>Beverage 1:2,11,12 2:6 Board 1:2,12 2:6 3:16 4:22 8:5,22 Brain 6:4 7:4 Brooks 1:16 2:10 2:11 Building 1:12 business 2:17</p> <p>C</p> <p>calendar 2:19 call 3:8 4:1 9:21 case 1:8 3:8,15,19 4:2,4 9:16 cases 4:3,3 cause 9:10 cell 3:5 cetera 7:10 chair 5:2,16 6:1,21 Chairman 1:13 Chairperson 1:15 2:3,9 4:12,15,20 5:4,17 6:13,18,22 7:3 Change 1:9 check 9:22 Circle 1:6 closed 3:18 closely 8:17 Clover 1:6 7:5,7 Coast 1:6 4:5,11,13 COLUMBIA 1:1 2:5 come 3:8 company 7:8 complete 8:18 comptroller 4:14 4:16 concluded 10:8 conclusion 8:15 conduct 2:17 consistent 3:16 constituting 2:18 consult 3:19 Control 1:2,11,12</p>	<p>2:6 controller 7:7 Copies 2:19 copy 6:14,15,16 8:11,12 9:2,6 corporate 7:7 correct 3:12 Counsel 10:1 court 2:22 CR 1:7</p> <p>D</p> <p>D.C 1:13 date 7:14 days 8:19 decision 3:21 deliberate 3:21 desk 2:20 determine 7:21 devices 3:5 Dick 4:10,10,14 5:10,14 6:10,16 7:6 10:5 Director 4:19 discuss 3:20 dismissal 9:4 disruptive 3:2 District 1:1 2:5 7:22 documents 5:7 8:14 Donald 1:16 2:10</p> <p>E</p> <p>Eads 4:18 6:7 electronic 3:4 empowering 7:6 ensure 3:12 enter 3:17 establishment 5:22 7:22 8:1 et 7:10 excluded 9:8 exclusion 9:13 Executive 4:18 exhibit 8:13,19 9:7 9:8 exhibits 8:21 9:7</p>	<p>explaining 8:10</p> <p>F</p> <p>failure 9:10 far 2:9 February 1:10 2:7 feel 9:21 files 6:4 finding 9:9 first 4:1,2,4 Flahaven 6:5 focused 8:4 form 8:12,13,19 9:7 forward 3:9 found 8:2 free 9:21 front 3:10</p> <p>G</p> <p>General 10:1 gentlemen 2:4 give 4:22 given 5:6,8 giving 6:14 going 4:1,22 good 2:3 4:17 7:11 9:10 Group 7:5,8</p> <p>H</p> <p>handle 5:16 hear 8:5 heard 7:17 hearing 1:7,12 2:19 3:3,15,18 4:3 5:1 7:10,14,19,20 8:3 8:16,20 9:17,18 9:21 10:7 Hector 1:17 2:12 HERMAN 1:16</p> <p>I</p> <p>identified 9:14 immediately 2:13 important 8:16 9:15 information 8:11</p>	<p>instance 5:21 instructions 5:1 7:16,18 intend 8:5 interruption 3:7 introduce 4:9 issues 4:21 8:4,7</p> <p>J</p> <p>James 1:18 2:15 Jenkins 10:1 Joining 2:9 JONES 1:16</p> <p>K</p> <p>keep 7:18 know 5:18,21 6:1 known 8:12</p> <p>L</p> <p>ladies 2:4 leading 9:20 left 2:13 legal 3:20 letter 5:11 6:2,5 8:10 letters 7:11 License 1:8 4:6 Likewise 9:12 LLC 1:6 located 4:5 8:1 Logan 1:6</p> <p>M</p> <p>Madam 5:2 6:21 mailing 8:9 Martha 10:1 matter 1:5 9:1 10:8 matters 8:6 meeting 1:3 2:5 3:18 Meetings 3:14,17 Member 1:15,16,16 1:17,17,18 5:2,5 5:12,15 6:20 7:1 10:6 members 2:16</p>
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